

**IN THE MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE

DANIELLE SANFORD,

Appellant,

v.

STATE OF MISSOURI,

Respondent.

DOCKET NUMBER WD72291

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

DATE: July 26, 2011

APPEAL FROM

The Circuit Court of Daviess County, Missouri
The Honorable R. Brent Elliott, Judge

JUDGES

Division I: Howard, P.J., and Ahuja and Mitchell, JJ.

CONCURRING.

ATTORNEYS

Alexa Irene Pearson, Assistant State Public Defender
Columbia, MO

Attorney for Appellant,

Chris Koster, Attorney General
John M. Reeves, Assistant Attorney General
Jefferson City, MO

Attorneys for Respondent.



MISSOURI APPELLATE COURT OPINION SUMMARY MISSOURI COURT OF APPEALS, WESTERN DISTRICT

DANIELLE SANFORD,

Appellant,

v.

STATE OF MISSOURI,

Respondent.

OPINION FILED:
July 26, 2011

WD72291

Daviess County

Before Division I Judges:

Victor C. Howard, Presiding Judge, and
Alok Ahuja and Karen King Mitchell, Judges

This is a Rule 24.035 case. The movant timely filed her *pro se* motion, which the motion court denied. However, the court never appointed counsel to file an amended motion or otherwise comply with Rule 24.035(e) and (g), even though it is undisputed that the movant is indigent. The court clearly erred in not appointing counsel, and the State concedes that the judgment should be reversed.

REVERSED AND REMANDED.

DIVISION I HOLDS:

Appellant Danielle Sanford argues that the motion court erred in denying her Rule 24.035 motion without first appointing counsel.

“When an indigent movant files a *pro se* [Rule 24.035] motion, the court shall cause counsel to be appointed for the movant.” Rule 24.035(e). The use of the term “shall” makes clear that, under Rule 24.035, appointment of counsel is mandatory, not discretionary.

Here, it is undisputed that (1) Sanford timely filed her Rule 24.035 motion; (2) she is indigent; and (3) the motion court failed to appoint counsel. Accordingly, we reverse the judgment and instruct the court to appoint counsel on remand.

OPINION BY: Karen King Mitchell, Judge

July 26, 2011

THIS SUMMARY IS **UNOFFICIAL** AND SHOULD NOT BE QUOTED OR CITED.